



House of Representatives

General Assembly

File No. 431

February Session, 2000

Substitute House Bill No. 5023

House of Representatives, April 5, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Safe Havens.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) The Division of State Police and each local police
2 department and hospital operating an emergency room shall designate
3 employees authorized to take physical custody of an infant pursuant to
4 section 2 of this act. There shall be a designated employee on duty at
5 each state police barracks, local police station and hospital emergency
6 room during regular business hours. There shall be a designated place
7 inside such state police barracks, local police station or hospital
8 emergency room where physical custody may be taken.

9 Sec. 2. (NEW) (a) An employee designated pursuant to section 1 of
10 this act shall take physical custody of any infant thirty days or younger
11 if the parent or lawful agent of the parent voluntarily surrenders
12 physical custody of the infant to such designated employee unless the
13 parent or agent clearly expresses an intent to return for the infant.

14 (b) The designated employee may request the parent or agent to
15 provide the name of the parent or agent and information on the
16 medical history of the infant. The parent or agent is not required to
17 provide such name or information. The designated employee may
18 provide the parent or agent with a numbered identification bracelet to
19 link the parent or agent to the infant. The bracelet shall be used for
20 identification only and shall not be construed to authorize the person
21 who possesses the bracelet to take custody of the infant on demand.
22 The designated employee shall provide the parent or agent with a
23 pamphlet describing the process established under this act.

24 Sec. 3. (NEW) (a) Not more than twenty-four hours after taking
25 physical custody of the infant the designated employee shall notify the
26 Department of Children and Families of such custody.

27 (b) The Department of Children and Families shall assume the care
28 and control of the infant immediately upon receipt of notice under
29 subsection (a) of this section.

30 (c) Any infant in the care and control of the department under the
31 provisions of this section shall be considered to be in the custody of the
32 department.

33 Sec. 4. (NEW) (a) If a person claiming to be a parent or agent of an
34 infant left with a designated employee under section 2 of this act
35 submits a request to the Commissioner of Children and Families for
36 reunification with the infant, the commissioner may identify, contact
37 and investigate such person or agent to determine if such reunification
38 is appropriate or if the parental rights of the parent should be
39 terminated.

40 (b) Information concerning a parent or agent or infant left with a
41 designated employee shall be confidential.

42 (c) Possession of a bracelet linking the parent or agent to an infant

43 left with a designated employee if parental rights have not been
44 terminated creates a presumption the parent or person has standing to
45 participate in a custody hearing for the infant under chapter 319a of
46 the general statutes and does not create a presumption of maternity,
47 paternity or custody.

48 Sec. 5. (NEW) The Department of Children and Families, in
49 consultation with the Attorney General, shall prepare a public
50 information program about the process established under this act.
51 Such program shall include distribution to mothers and agents of a
52 pamphlet that has the following information: (1) An explanation of the
53 process established by sections 1 to 5, inclusive, of this act; (2) the legal
54 ramifications and protections for the mother or agent; (3) what will
55 happen to the infant; (4) how to contact the Department of Children
56 and Families with questions and the procedures for reunification; (5)
57 the timelines involved in termination of parental rights and adoption;
58 and (6) any other relevant information.

59 Sec. 6. Section 53-21 of the general statutes is repealed and the
60 following is substituted in lieu thereof:

61 (a) Any person who (1) wilfully or unlawfully causes or permits any
62 child under the age of sixteen years to be placed in such a situation
63 that the life or limb of such child is endangered, the health of such
64 child is likely to be injured or the morals of such child are likely to be
65 impaired, or does any act likely to impair the health or morals of any
66 such child, or (2) has contact with the intimate parts, as defined in
67 section 53a-65, of a child under the age of sixteen years or subjects a
68 child under sixteen years of age to contact with the intimate parts of
69 such person, in a sexual and indecent manner likely to impair the
70 health or morals of such child, or (3) permanently transfers the legal or
71 physical custody of a child under the age of sixteen years to another
72 person for money or other valuable consideration or acquires or
73 receives the legal or physical custody of a child under the age of

74 sixteen years from another person upon payment of money or other
75 valuable consideration to such other person or a third person, except in
76 connection with an adoption proceeding that complies with the
77 provisions of chapter 803, shall be guilty of a class C felony.

78 (b) Any parent or agent who leaves an infant thirty days or younger
79 with a designated employee pursuant to section 2 of this act shall not
80 be guilty of a violation under this section.

81 Sec. 7. Section 53-23 of the general statutes is repealed and the
82 following is substituted in lieu thereof:

83 (a) Any person having the charge of any child under the age of six
84 years who exposes [it] such child in any place, with intent wholly to
85 abandon it, shall be fined not more than five hundred dollars and
86 imprisoned not more than five years.

87 (b) Any parent or agent who leaves an infant thirty days or younger
88 with a designated employee pursuant to section 2 of this act shall not
89 be guilty of a violation under this section.

Statement of Legislative Commissioners:

In Subsec. (a) of section 7, "it" was changed to "such child" for grammatical accuracy.

KID Committee Vote: Yea 12 Nay 0 JFS C/R JUD

JUD Committee Vote: Yea 40 Nay 0 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Cost, Potential Minimal Savings

Affected Agencies: Department of Public Safety, Department of Children and Families, University of Connecticut Health Center, Judicial Department, Office of the Attorney General

Municipal Impact: Potential Minimal Cost

Explanation**State and Municipal Impact:**

The bill requires local police departments, the State Police and John Dempsey Hospital at the University of Connecticut Health Center to designate employees to take physical custody of newborn babies when voluntarily surrendered by their parent. It specifies procedures that the designated employee must follow which include notifying and turning over custody to the Department of Children and Families (DCF) within 24 hours. This could result in a minimal workload increase and minimal costs to State and municipal police departments and Dempsey Hospital that would be handled by existing staff and within existing resources.

The Department of Children and Families and the Office of the Attorney General will incur minimal costs, which can be

accommodated within their anticipated budgetary resources, to develop information for distribution to parents and their lawful agents.

The bill could result in minimal savings to the criminal justice system by limiting the instances in which a person may be charged with risk of injury to or abandonment of a child. It exempts from criminal liability a parent who leaves an infant with a designated employee. The extent to which these individuals are currently charged with these crimes is unknown, but the number is not anticipated to be significant. A minimal reduction in revenues from court-imposed fines may result.

According to court statistics, there were 5,221 offenses of risk of injury to a child and 3 offenses of abandonment of a child in 1999. The sum of \$2,140 was collected in criminal fines related to these offenses. According to Department of Corrections statistics, there were approximately 293 incarcerated persons having risk of injury to a child as their primary charge. No persons were incarcerated for abandonment of a child as their primary charge in 1999.

OLR Bill Analysis
sHB 5023**AN ACT CONCERNING SAFE HAVENS.****SUMMARY:**

This bill exempts a parent of a newborn from criminal liability for abandonment or risk of injury to a minor if he voluntarily leaves a baby with designated hospital or police staff. A parent can leave a baby anonymously, but the bill permits giving him a numbered bracelet that can serve as identification if, in the future, he wishes to be reunified with the child. The Department of Children and Families (DCF) assumes custody of a baby left under these circumstances. A court must approve a parent's attempt to reunify.

EFFECTIVE DATE: October 1, 2000

SURRENDERING CUSTODY OF A NEWBORN***Leaving a Newborn***

The bill requires each hospital operating an emergency room, local police departments, and the State Police to designate employees to take physical custody of babies less than 31 days old if a parent or the parent's lawful agent voluntarily surrenders custody. They must have a designated employer on duty during regular business hours. These employees do not take custody if the parent or agent clearly says he will return for the baby. The agencies must also designate a location in the police barracks, station, or emergency room where custody may be taken.

The designated employee can ask the parent or agent for his name or information on the baby's medical history, but the person does not have to provide it. Any information the person gives is confidential. The employee can give the parent or agent a numbered bracelet to link the person to the baby. The bracelet serves to identify the individual in

case he wishes to seek reunification with the baby. But possessing a bracelet does not entitle the person to take custody of the baby on demand.

The designated employee must give the person leaving the baby a pamphlet explaining (1) the process for voluntary surrender of custody, (2) the legal ramifications and protections for the mother or agent, (3) what will happen to the baby, (4) how to contact DCF about reunification, (5) the timelines for terminating parental rights, and (6) any other relevant information. DCF, in consultation with the Attorney General's Office, must publish the pamphlet as part of a public information program explaining the voluntary surrender process.

Termination of Parental Rights or Reunification

The employee receiving custody of the baby must report it to DCF within 24 hours. Immediately on receiving this notice, DCF must assume care and control of the baby. The bill deems this assumption of care to mean that the baby is in DCF custody. This appears to supercede the requirement, typical in neglect cases, that the Superior Court grant DCF temporary custody. Presumably, DCF must still initiate court action to obtain a finding of neglect, have the child committed to its care and custody, and to terminate the parents' rights.

If someone claiming to be the parent or agent of the parent of an infant left at a police station or hospital asks DCF to be reunited with the infant, the bill permits DCF to identify, contact, and investigate him to determine if reunification is appropriate or if the parent's rights should be terminated.

If parental rights have not already been terminated, the Superior Court holds a hearing to make the final custody determination. This hearing follows the Superior Court procedure for termination of parental rights. The bill presumes that a person possessing an identification bracelet linking him to the infant has standing in the action. But it does not create a presumption of maternity, paternity, or custody.

BACKGROUND

Risk of Injury to a Minor and Abandonment

A person is guilty of risk to injury of a minor if he willfully or unlawfully places, or permits the placement of, a child under age 16 in a situation where the child's health or life is likely to be endangered or injured. It is a class C felony punishable by one to 10 years in prison, a fine of up to \$10,000, or both.

A person is guilty of abandoning a child if he leaves it somewhere with the intention to abandon it. It is punishable by up to five years in prison and a fine of up to \$500.

Process for Determining Custody and Termination of Parental Rights

Abandoning a child is one ground for determining neglect, and, subsequently for terminating a parent's rights to a child. DCF's policy when an infant under age six months is abandoned is to file simultaneous petitions in Superior Court to give it temporary custody of the child, make a neglect determination, and terminate the parent's rights (TPR).

Within 10 days, the court determines whether to grant temporary custody. If it does, it must then hold a hearing on the neglect and TPR petitions, providing at least 14 days' notice. Where the parents' address is unknown, notice must be published in a newspaper serving the last known address. The hearing must begin within 30 days' after the petition is filed.

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference

Yea 12 Nay 0

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 0

